THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 22791 OF 2005

DATED: 24-10-2005

Between

M/s. Venkateswara Silk Mills,

A Partnership Firm, having its

Office at Sy.No. 246, Gaganpahad,

Ranga Reddy District, Hyderabad,

Represented by its Partner

Sri Raghunathmal Goyal.

..... PETITIONER

And

The Commissioner of Appeals,

O/o Commissioner of Customs & Central Excise,

VII Floor, Central Revenue Building,

L.B. Stadium Road, Basheerbagh,

Hyderabad and another.

..... RESPONDENTS

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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 22791 OF 2005

ORDER: (per Sri B. Sudershan Reddy, J)

The impugned order dated 30-08-2005, in our considered opinion, does not suffer from any errors, much less errors apparent on the face of the record, requiring this Court's interference in exercise of its Certiorari jurisdiction. The appellate authority having scrutinized the appeal preferred by the petitioner found that the original authority passed the order that was received by the petitioner on 17-03-2005 and the appeal has been filed on 19-08-2005. Thus there is a delay of 95 days in filing the appeal. The appellate authority found that in terms of Section 35 of the Central Excise Act, 1944, it has power to condone the delay for a period of 30 days only, i.e., to say, beyond the stipulated period of 60 days. In the instant case, there is a delay of 95 days as against the condonable period of 30 days. None of the facts are put in issue before us in this writ petition. In the circumstances, we cannot find fault with the order passed by the appellate authority dismissing the appeal as barred by limitation. The appellate authority precisely for that reason appears to have rejected the appeal reluctantly with the observation "I have no other option but to reject the

appeal”.

For the aforesaid reasons, the writ petition fails and shall accordingly stand dismissed.

(B. Sudershan Reddy, J)

24..10..2005

(S. Ananda Reddy, J)

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